

April 18, 2013

**By Electronic Mail and Electronic Filing**

Evan C. Baranoff  
Staff Attorney  
Federal Communications Commission  
Media Bureau, Policy Division  
445 12th Street, S.W.  
Washington, DC 20554

Re: Retransmission Consent Complaints against TV Max

- Fox Enforcement Complaint Concerning KTXH(TV) and KRIV(TV), Houston TX, MB Docket No. 12-113, CSR No. 8623-C (dated Apr. 12, 2012) (“FOX Complaint”)
- Univision Enforcement Complaint Concerning KXLN-DT, Rosenberg, TX and KFTH-DT, Alvin, TX, MB Docket No. 12-181, CSR No. 8669-C (dated Jun. 21, 2012) (“Univision Complaint”)
- Post-Newsweek Enforcement Complaint Concerning KPRC-TV, Houston, TX, MB Docket No. 12-222, CSR No. 8694-C (dated Jul. 31, 2012) (“Post-Newsweek Complaint”)
- ABC Enforcement Complaint Concerning KTRK-TV, Houston, TX, MB Docket No. 12-266, CSR No. 8707-C (dated Sept. 5, 2012) (“ABC Complaint”)

Dear Mr. Baranoff:

Fox Television Holdings, Inc. (“Fox”), Univision Communications, Inc. (“Univision”), Post-Newsweek Stations, Houston, Inc. (“Post-Newsweek”), and ABC, Inc. (“ABC”), (collectively, the “Joint Complainants”) submit this letter in order to address the materially misleading statements by TV Max, Inc. (“TV Max”) in its April 5, 2013, response to the Media Bureau’s March 28, 2013, e-mail requesting information related to the referenced Complaints.

With respect to each Complaint, the Media Bureau asked TV Max and the complaining broadcaster whether “TV Max currently carr[ies]” the subject commercial broadcast stations “on

its fiber ring,” and, if not, when TV Max ceased retransmitting the stations. TV Max’s response was the same for each Complaint, to wit, that “since June 7, 2012, the stations have not been carried on any fiber ring owned or controlled by TVMax.”<sup>1</sup> But the response does not disclose that June 7, 2012 is the exact same date that a *commonly controlled corporate affiliate of TV Max* began to lease TV Max’s fiber ring.<sup>2</sup> In addition, the response neglects to mention that another commonly controlled affiliate purchased TV Max’s fiber ring just weeks later, on July 1, 2012.<sup>3</sup> By conveniently focusing its answers solely on “its” own fiber ring, TV Max’s response is fundamentally misleading.<sup>4</sup> TV Max simply ignores the essence of the Bureau’s question: whether TV Max is “currently carry[ing]” any of the Joint Complainants’ stations without authorization and, if not, when it obtained authorization or “cease[d] retransmitting” the stations.<sup>5</sup> Based on all of the information available to the Complainants, there is little doubt that TV Max’s unauthorized retransmissions of the stations’ signals have continued unabated.

Moreover, the response is inconsistent with TV Max’s own prior statements in this proceeding. On July 26, 2012, in response to the Media Bureau’s interrogatory whether “[i]n the buildings that TV Max has converted to MATV, does it still deliver broadcast signals via its fiber ring?” TV Max responded: “Yes. Broadcast signals are delivered to MDU residents using both the fiber ring and the MATV systems.”<sup>6</sup> Notably, this response was submitted after June 7, 2012, the date TV Max supposedly stopped retransmitting using “its” fiber ring.

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<sup>1</sup> E-mail from Carl Kandutsch, TV Max counsel, to Evan Baranoff, FCC staff attorney, *et al.* (sent April 5, 2013).

<sup>2</sup> See *Broadband Fiber, LLC’s Response to Commission Staff’s Request for Information* (Question Nos. Staff 1-1 Through Staff 1-7), In re: Application of Broadband Fiber, LLC for Service Provider Certificate of Operating Authority, Texas PUC Docket No. 41023 (Feb. 28, 2013), at 1-2 (available online at [http://interchange.puc.texas.gov/WebApp/Interchange/application/dbapps/filings/pgSearch\\_Results.asp?TXT\\_CNTR\\_NO=41023&TXT\\_ITEM\\_NO=21](http://interchange.puc.texas.gov/WebApp/Interchange/application/dbapps/filings/pgSearch_Results.asp?TXT_CNTR_NO=41023&TXT_ITEM_NO=21)) (“*Broadband Fiber Responses to Texas PUC*”).

<sup>3</sup> *Id.* Even if a TV Max affiliate leased the fiber ring as of June 7, 2012, it appears that TV Max still “owned” the ring on that date (i.e., before July 1, 2012). Thus, TV Max’s most recent response to the Bureau is false even with regard to the fiber ring’s ownership as of June 7, 2012.

<sup>4</sup> See 47 C.F.R. § 1.17(a)(2) (“In any investigatory or adjudicatory matter within the Commission’s jurisdiction ... no person subject to this rule shall ... [i]n any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”).

<sup>5</sup> E-mail from Evan Baranoff, FCC staff attorney, to counsel of record in MB Docket Nos. 12-113, 12-181, 12-222, 12-266 (sent March 28, 2013).

<sup>6</sup> E-mail from Carl Kandutsch, TV Max counsel, to Diana Sokolow, FCC attorney advisor (sent July 26, 2012)

Meanwhile, in December 2012, TV Max asserted that “[e]ffective July 1, 2012,” -- that is, as of a date prior to its July 26, 2012 interrogatory response -- “certain assets of TV Max, Inc. ... were acquired by Broadband Ventures Six, LLC, and by Broadband Fiber, LLC.”<sup>7</sup> In particular, TV Max asserted that its “head-end and cable television subscriber assets were acquired by Broadband Ventures Six, LLC, and TV Max’s fiber optic network facility located in Houston, Texas, was acquired by Broadband Fiber, LLC,” so that “[w]hile TV Max continues to exist and operate as the holder of a cable television franchise with the City of Houston, the relevant service provider is Broadband Ventures Six, LLC.”<sup>8</sup>

None of TV Max’s filings with the Commission disclose the following key facts that establish the common control of TV Max, Broadband Ventures Six, LLC (“Broadband Ventures Six”) and Broadband Fiber, LLC (“Broadband Fiber”):

- According to records of the Texas Secretary of State, TV Max and Broadband Ventures Six are under the common control of two individuals: Tom Balun and Eric Meltzer.<sup>9</sup>
- Broadband Ventures Six and Broadband Fiber share a common mailing address: 290 King of Prussia Road, Radnor, Pennsylvania 19087.<sup>10</sup>
- In its application to the Texas Public Utilities Commission (“PUC”) for authority to operate, Broadband Fiber identifies TV Max as “an affiliate of Applicant” in disclosing the complaint history against TV Max.<sup>11</sup> That filing also notes that Broadband Fiber’s sole shareholder is “Broadband Ventures Group, LLC,” which wholly owns Broadband Fiber and Broadband Ventures Six.<sup>12</sup> The filing identifies Richard Gomez as Vice President of Broadband Fiber.<sup>13</sup> Gomez also is Vice President and General Manager of TV Max.<sup>14</sup>

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<sup>7</sup> E-mail from Carl Kandutsch, TV Max counsel, to Diana Sokolow, FCC attorney advisor, *et al.* (sent Dec. 3, 2012).

<sup>8</sup> *Id.*

<sup>9</sup> See Attachments 1 and 2

<sup>10</sup> See Attachments 2 and 3.

<sup>11</sup> See *Application of Broadband Fiber, LLC for a Service Provider Certificate of Operating Authority*, Texas PUC Docket No. 41023 (Dec. 6, 2012), at Question 13(a) (“*Broadband Fiber Texas PUC Application*”). A copy of the filing is provided as Attachment 4.

<sup>12</sup> See *id.* at Questions 2(g) and 2(h).

<sup>13</sup> See *id.* at Question 2(f). See also Attachment 2.

<sup>14</sup> See *Retransmission Consent Complaint And Petition of Fox Television Holdings, Inc.*, MB Docket No. 12-113, at Attachment 5 (April 12, 2012).

- A later filing by Broadband Fiber in the same Texas PUC proceeding states that as of June 7, 2012, Broadband Ventures Six “leased capacity (‘dark fiber’) on the fiber optic network owned and operated by TVMax Houston, LP,” and that Broadband Fiber subsequently acquired the fiber network from TV Max on July 1, 2012.<sup>15</sup> As a result of these transactions, TV Max asserts, “TVMax continues to hold the City of Houston municipal cable franchise,” but “BV 6 is a private cable operator” that “leases dark fiber that is owned by [Broadband Fiber] and used for the transmission of video programming signals to subscribing residents of multi-dwelling buildings served by BV 6.”<sup>16</sup> These responses are sponsored by Tom Balun, whom TV Max has identified as its CEO.<sup>17</sup>

In light of these facts, it is evident that TV Max’s most recent response to the Bureau’s inquiries rests on TV Max’s drawing of artificial distinctions between its own operations and those of its commonly controlled affiliates. TV Max’s response leaves little doubt that the signals of the Joint Complainants’ stations continue to be carried over a fiber ring. Even if, as TV Max would have the Commission believe, the Joint Complainants’ signals no longer are carried on a fiber ring directly “owned or controlled by TV Max,”<sup>18</sup> it is of no consequence. All that matters is whether TV Max is retransmitting the stations’ signals without authorization. If that is the case, as it appears to be, then as the Bureau already has confirmed, TV Max is continuing to violate the Communications Act and the Commission’s rules.

The Commission need not and should not condone TV Max’s shell games. TV Max’s focus on “its” fiber ring, and its attempt to hide behind the purported transfer of control of the fiber ring to commonly controlled alter egos, is a transparent attempt to evade forthrightly answering the Bureau’s questions about its willful, repeated, and apparently continuing violations of Section 325 of the Communications Act and the Commission’s retransmission consent regime.<sup>19</sup>

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<sup>15</sup> See *Broadband Fiber, LLC’s Response to Commission Staff’s Request for Information* (Question Nos. Staff 1-1 Through Staff 1-7), In re: Application of Broadband Fiber, LLC for Service Provider Certificate of Operating Authority, Texas PUC Docket No. 41023 (Feb. 28, 2013), at 1-2 (available online at [http://interchange.puc.texas.gov/WebApp/Interchange/application/dbapps/filings/pgSearch\\_Results.asp?TXT\\_CNTR\\_NO=41023&TXT\\_ITEM\\_NO=21](http://interchange.puc.texas.gov/WebApp/Interchange/application/dbapps/filings/pgSearch_Results.asp?TXT_CNTR_NO=41023&TXT_ITEM_NO=21)) (“*Broadband Fiber Responses to Texas PUC*”).

<sup>16</sup> *Id.*

<sup>17</sup> See, e.g., Surreply of TV Max to Reply of Univision Communications, Inc., MB Docket No. 12-181, at Attachment 1 (Aug. 6, 2012).

<sup>18</sup> Though, based on its representations to the Texas PUC, it is evident that TV Max continued to own the fiber ring at least during the period between June 7 and July 1, 2012. See *Broadband Fiber Responses to Texas PUC*, *supra* n.2, at 1-2.

<sup>19</sup> See 47 U.S.C. § 325(b); 47 C.F.R. § 76.64.

Respectfully submitted,

/s/

Ellen S. Agress  
Senior Vice President  
Joseph M. Di Scipio  
Vice President, Legal and FCC Compliance  
Fox Television Holdings, Inc.  
444 N. Capitol St., N.W., Suite 740  
Washington, D.C. 20001

Maureen O'Connell  
Senior Vice President, Regulatory and  
Government Affairs  
Jared S. Sher  
Vice President & Associate General Counsel  
News Corporation  
444 N. Capitol St., N.W., Suite 740  
Washington, D.C. 20001

Christopher G. Wood  
Senior Vice President and  
Associate General Counsel  
Univision Communications Inc.  
5999 Center Drive  
Los Angeles, CA 90045-0073  
(310) 348-3696

Matthew S. DelNero  
Eve R. Pogoriler  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue NW  
Washington, D.C. 20004-2401  
(202) 662-6000

*Counsel for Univision Communications, Inc.*

Jennifer A. Johnson  
Eve R. Pogoriler  
Michael P. Beder  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue NW  
Washington, D.C. 20004-2401  
(202) 662-6000

*Counsel for Post-Newsweek Stations,  
Houston, Inc.*

Tom W. Davidson, Esq.  
AKIN GUMP STRAUSS HAUER &  
FELD LLP  
1333 New Hampshire Ave., N.W.  
Washington, DC 20036  
(202) 887-4000

Susan L. Fox, Esq.  
Vice President  
The Walt Disney Company  
425 3rd Street S.W., Suite 1100  
Washington, DC 20024  
(202) 222-4700

*Its Attorneys*

Attachments

# Attachment 1

TEXAS SECRETARY of STATE

JOHN STEEN

UCC | Business Organizations | Trademarks | Notary | Account | Help/Fees | Briefcase | Logout

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number:

10195306

Entity Type:

Foreign For-Profit Corporation

Original Date of Filing:

October 5, 1994

Entity Status:

Forfeited existence

Formation Date:

N/A

FEIN:

Tax ID:

19544987043

Name:

TVMAX, INC.

Address:

10300 WESTOFFICE DRIVE STE 200  
Houston, TX 77042 USA

Fictitious Name:

N/A

Jurisdiction:


DE, USA

Foreign Formation Date:

N/A

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Last Update	Name	Title	Address		
December 23, 2010	THOMAS M BALUN	PRESIDENT	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		
December 23, 2010	THOMAS M BALUN	DIRECTOR	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		
December 23, 2010	ERIC MELTZER	VICE PRESIDENT	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		
December 23, 2010	ERIC MELTZER	DIRECTOR	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		
December 23, 2010	CHRISTIAN J BALUN	VICE PRESIDENT	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		
December 23, 2010	CHRISTIAN J BALUN	DIRECTOR	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		
December 23, 2010	MATTHEW T BALUN	SECRETARY	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		
December 23, 2010	MATTHEW T BALUN	TREASURER	10300 WESTOFFICE DR STE 200 HOUSTON, TX 77042 USA		

Instructions:

 To place an order for additional information about a filing press the 'Order' button.



# Attachment 2

TEXAS SECRETARY of STATE

JOHN STEEN

UCC | Business Organizations | Trademarks | Notary | Account | Help/Fees | Briefcase | Logout

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number:

801571764

Entity Type:

Foreign Limited Liability Company (LLC)

Original Date of Filing:

March 26, 2012

Entity Status:

In existence

Formation Date:

N/A

Tax ID:

32047449742

FEIN:

454719143

Name:

Broadband Ventures Six, LLC

Address:

290 King of Prussia Road, Building 2, Suite 108  
Radnor, PA 19087 USA

Fictitious Name:

BroadVent Six, LLC

Jurisdiction:


DE, USA

Foreign Formation Date:

March 5, 2012

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Last Update	Name	Title	Address		
March 26, 2012	Tom Balun	Manager	290 King of Prussia Road, Building 2, Suite 108 Radnor, PA 19087 USA		
March 26, 2012	Eric Meltzer	Manager	290 King of Prussia Road, Building 2, Suite 108 Radnor, PA 19087 USA		

Instructions:

 To place an order for additional information about a filing press the 'Order' button.

# Attachment 3

TEXAS SECRETARY of STATE

JOHN STEEN

UCC | Business Organizations | Trademarks | Notary | Account | Help/Fees | Briefcase | Logout

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number:

801673825

Entity Type:

Foreign Limited Liability Company (LLC)

Original Date of Filing:

October 23, 2012

Entity Status:

In existence

Formation Date:

N/A

Tax ID:

32049317541

FEIN:

455586522

Name:

BROADBAND FIBER, LLC

Address:

290 King of Prussia Road  
Radnor, PA 19087 USA

Fictitious Name:

N/A

Jurisdiction:


DE, USA

Foreign Formation Date:

June 27, 2012

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Last Update	Name	Title	Address		
October 24, 2012	Richard Gomez	Governing Person	290 King of Prussia Road Radnor, PA 19087 USA		

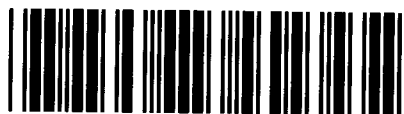
Instructions:

 To place an order for additional information about a filing press the 'Order' button.

# Attachment 4



Control Number: 41023



Item Number: 1

Addendum StartPage: 0



## Public Utility Commission of Texas

1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326  
512 / 936-7000 • (Fax) 936-7003  
Web Site: www.puc.state.tx.us

RECEIVED  
2012 DEC -6 AM 11:55  
PUBLIC UTILITY COMMISSION  
FILING CLERK

### TITLE PAGE

#### APPLICATION FOR CERTIFICATION, RE-QUALIFICATION, OR AMENDMENT TO A SERVICE PROVIDER CERTIFICATE OF OPERATING AUTHORITY OR A CERTIFICATE OF OPERATING AUTHORITY

DOCKET/PROJECT NO. 41023

APPLICANT(s): 1. Broadband Fiber, LLC  
2. \_\_\_\_\_

#### Authorized Representative for this Application:

NAME: Carl E. Kandutsch, Esq.  
TITLE: Attorney  
ADDRESS: 2520 Avenue K, Suite 700-760, Plano, Texas 75074  
TELEPHONE: (207) 659-6247 (mobile)  
FAX: (214) 291-5724  
EMAIL ADDRESS: carl@kandutsch.com

#### Regulatory Representative:

NAME: Carl E. Kandutsch, Esq.  
TITLE: Attorney  
ADDRESS: 2520 Avenue K, Suite 700-760, Plano, Texas 75074  
TELEPHONE: (207) 659-6247 (mobile)  
FAX: (214) 291-5724  
EMAIL ADDRESS: carl@kandutsch.com

#### Complaint Representative:

NAME: Alejandro Gomez  
TITLE: Vice President  
ADDRESS: 10200 Westfield Drive Suite 200, Houston TX 77042  
TELEPHONE: 713 297-1574  
FAX: 713 297-1520  
EMAIL ADDRESS: agomez@wlvare.com


Effective Date 6/23/2011

# AFFIDAVIT

STATE OF New York §  
§  
COUNTY OF monroe §

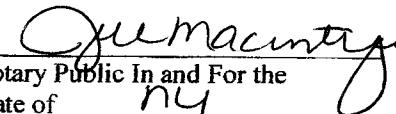
1. My name is R. ANTHONY KEEFE. I am  
PRESIDENT of the Applicant BROADBAND FIBER LLC

2. I swear or affirm that I have personal knowledge of the facts stated in this Application for a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one), that I am competent to testify to them, and that I have the authority to make this Application on behalf of the Applicant. I further swear or affirm that all of the statements and representations made in this Application for a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one) are true and correct. I swear or affirm that the Applicant understands and will comply with all requirements of law applicable to a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one).

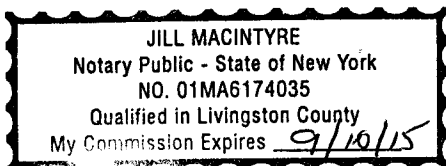
  
Signature

R. ANTHONY KEEFE  
Typed or Printed Name

SWORN TO AND SUBSCRIBED before me on the 30 day of Nov, 2012.

  
Notary Public In and For the  
State of NY

My commission expires: 9/10/15





BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 1 -- Check only one of the following Requests:

(a)

  X   New SPCOA Application

\_\_\_\_\_ Application  
Amending SPCOA No. \_\_\_\_\_

\_\_\_\_\_ New COA Application

\_\_\_\_\_ Application  
Amending COA No. \_\_\_\_\_

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 2 -- Provide a description of the Applicant, which shall include the following:

(a) Legal name and all assumed names under which the Applicant conducts business, if any:

ANSWER: Broadband Fiber, LLC

(b) Address of principal office and business office:

ANSWER: 290 King of Prussia Road, Bldg 2-108  
Radnor, PA 19087

(c) Principal office/business office telephone number:

ANSWER: 610-293-5990

Fax number:

ANSWER: 610-672-9389

Website address:

ANSWER: "No website at this time"

E-mail address:

ANSWER: rgomez@bvone.com

Toll-free customer service telephone number. *(If the Applicant has not obtained the toll-free customer service telephone number at the time of the Application, the Applicant must commit to obtaining one before beginning business):*

ANSWER: 866-846-3488

(d) FCC Carrier Identification Code (CIC) or National Exchange Carriers Association (NECA)  
Operating Carrier Numbers (OCNs), if available:

ANSWER: Not available.

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 2 (e) -- Form of business in Texas (e.g , corporation, partnership, sole proprietorship):

ANSWER: Limited Liability Company.

Charter/Authorization number, date business was formed and date change was made (if applicable):

ANSWER: Formed: June 27, 2012; State of Delaware;

Texas Secretary of State Authorizes Broadband Fiber LLC to do business in the State of Texas; on 10/23/2012; File #801673825

Texas; Sales and Use Tax Permit No. 3-20493-1754-1

Provide the State and date in which the parent company is registered. (*The Commission requires registration with the Secretary of State for all forms of business, except sole proprietorships.*):

ANSWER: Broadband Ventures Group, LLC; State of Delaware; Date: 11/15/2012

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 2 (f) -- A list of the names, titles, phone number and office e-mail address of each director, officer, or partner:

ANSWER: R. Anthony Keefe, President, rakeefe@bvone.com, 610-293-5990

Richard Gomez, Vice President, rgomez@bvone.com, 713-587-1234

Patricia Russell, Secretary, prussell@bvone.com , 610-293-5990

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 2 (g) -- Name, address, and office address of each of the five largest shareholders, if not publicly traded:

ANSWER: The sole shareholder is:

Broadband Ventures Group, LLC

290 King of Prussia Road, Bldg. 2-108

Radnor, PA 19087

(610) 293-5990

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 2 (h) -- Legal name of parent company, if any, and a description of its primary business interests:

ANSWER:

Broadband Ventures Group, LLC wholly owns three subsidiaries, listed below:

Broadband Fiber, LLC (the Applicant) owns and operates fiber optic network facilities in Houston, Texas, and serves one customer in Texas.

Cincinnati Communications, LLC owns and operates fiber optic network facilities in Cincinnati, Ohio, and serves approximately 2,010 customers in Ohio.

Broadband Ventures Six, LLC is a private cable operator that provides multi-channel video programming services to approximately 6,000 customers in Houston, Texas.

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 2 (i) -- Legal name of all affiliated companies that are public utilities or that are providing telecommunications services and the states in which they are providing service. Give a description of all affiliates and explain in detail the relationship between the Applicant and its affiliates. An organizational chart should be provided, if available.

ANSWER: None

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 3-- State the name **and only one name**, in which the Applicant wants the Commission to issue its certificate. Provide the following information from the Applicants registration with the Office of the Secretary of State of Texas or registration with another state or county, as applicable: *(NOTE: If the Applicant is a corporation, the Commission will issue the certificate in either the Applicant's corporate or assumed name, not both. The certificate holder must use only the name approved by the Commission on all bills and advertisements sent to or viewed by the public. Name Changes require Commission Approval as well as Secretary of State Approval.)*

(a) Requested name:

ANSWER: Broadband Fiber, LLC

(b) Assumed names:

ANSWER: Broadband Fiber, LLC

(c) Texas Secretary of State (or County) file number:

ANSWER: 801673825

(d) Texas Comptroller's Tax Identification number:

ANSWER: 3-20493-1754-1

(e) Other Applicable certification/file numbers:

ANSWER: None

(f) Date the business was registered:

ANSWER: 10/15/2012



BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 4 (a) -- Provide a detailed description of the telecommunications services to be provided.

(b) Indicate with a yes or no response for each item below, whether the Applicant will be providing the following telecommunications services and whether the service will be for business or residential service:

	Business	Residential
No___ POTS (Plain Old Telephone Service)	_____	_____
No___ ADSL	_____	_____
No___ ISDN	_____	_____
No___ HDSL	_____	_____
No___ SDSL	_____	_____
No___ RADSL	_____	_____
No___ VDSL	_____	_____
Yes___ Optical Services	<u>X</u> _____	_____
No___ T1-Private Line	_____	_____
No___ Switch 56 KBPS	_____	_____
No___ Frame Relay	_____	_____
No___ Fractional T1	_____	_____
No___ Long Distance	_____	_____
No___ Wireless	_____	_____
Yes___ Other (Please Describe):	_____	_____

Applicant will own and operate fiber optic network facilities located in the areas identified in the Answer to Question 7.

The facilities will be used to provide signal transmission services, including leased dark fiber, video supertrunking and data transport and backhaul services to telecommunications, data and multi-channel video programming service providers.

The Applicant will not provide any telecommunications service, information service, cable television service or other retail service to end-user (business or residential) customers.

BROADBAND FIBER, LLC  
Docket No: \_\_\_\_\_

Question 5 (a) -- Is the Applicant providing prepaid calling services?

ANSWER: No.

BROADBAND FIBER, LLC

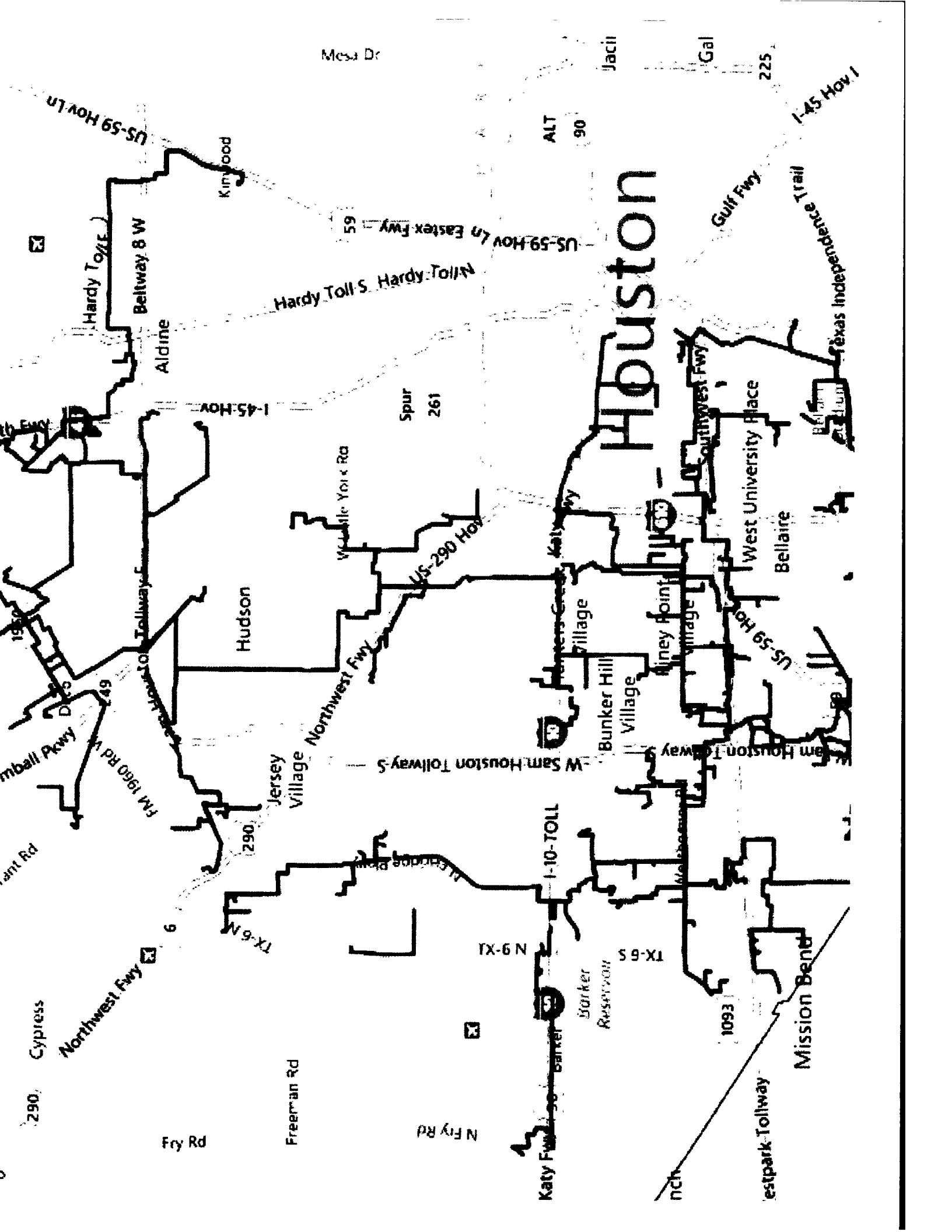
Docket No:

Question 6 (a) -- Indicate below the type of certification being requested:

- ☐ Facilities-based, Data, and Resale
- ☐ Facilities-based and Resale
- ☐ Resale Only
- ☒ Data Only – Facilities-based and Resale
- ☐ Data Only – Resale Only

Docket No: \_\_\_\_\_

ANSWER: Attached Fiber Map



Mesa Dr

Jacii

Gal

225

I-45 Hov 1

Gulf Fwy

Independence Trail

West University Place

Bellaire

Houston

Southwest Fwy

West University Place

Bellaire

US-59 Hov 1

Bunker Hill Village

Finney Point Village

W. Sam Houston Tollway

Katy Freeway

Barker Reservoir

TX-6 S

1093

Mission Bend

Westpark Tollway

Katy Freeway

N Fry Rd

Freeman Rd

Fry Rd

Northwest Fwy

Cypress

290

Ant Rd

mball Pkwy

1950

1950

1950

1950

1950

1950

1950

1950

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 8 -- Does the Applicant, owner, or any affiliate currently hold a service provider certificate of operating authority (SPCOA), certificate of operating authority (COA), or certificate of convenience and necessity (CCN) for any part of the area covered by this Application?

ANSWER: No.

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 9 (a) -- Does the Applicant expect to provide service to customers other than itself and its affiliates?

ANSWER: Yes.

(b) Has the Applicant provided one copy of this Application to the Texas Commission on State Emergency Communications (a.k.a. 911 Commission) within 5 days of submitting the application? If you are relinquishing the certificate have you also sent a copy of the application to all affected 911 entities within 5 days of submitting the application? *(Send copy to Commission on State Emergency Communications, Accounts Payable Section at 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701-3942, with phone number 512-305-6911, fax number 512-305-6937, and website address [www.911.state.tx.us](http://www.911.state.tx.us)).*

ANSWER: Yes.

(c) As part of the Application provided to the 911 Commission and this commission, has the applicant provided the following information concerning its 911 contact person as required in Substantive Rule No. 26.433(e)(2)(a)? (You may provide up to three 911 contacts per company)

Name: Richard Gomez

Title: Vice President, General Manager

Address: 10300 Westoffice Drive, Suite 200, Houston, TX 77042

Office Number: 713-587-1234

Fax Number (Optional): 713-587-1280 or 610-672-9389

Email Address: rgomez@bvone.com

Name: Patricia Russell

Title: Secretary

Address: 290 King of Prussia Rd., Bldg 2-108, Radnor, PA 19087

Office Number: 610-293-5990

Fax Number (Optional): 610-672-9389

Email Address: prussell@bvone.com

BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 10 (a) -- Is the Applicant a municipality?

ANSWER: No.

(b) Will the Applicant enable a municipality or municipal electric system to offer for sale to the public, directly or indirectly, local exchange telephone service, basic local telecommunications service, switched access service, or any non-switched telecommunications service used to provide connections between customers' premises within an exchange or between a customer's premises and a long distance provider serving the exchange?

ANSWER: No.



BROADBAND FIBER, LLC

Docket No: \_\_\_\_\_

Question 11 (a) -- **APPLICABLE TO SPCOA APPLICANTS ONLY.** Report total intrastate switched access minutes of use for the Applicant, together with its affiliates, for the twelve-month period beginning sixteen months before the first day of the month in which this Application is filed. *(In calculating minutes of use for this question, include minutes of all entities affiliated with the Applicant.)*

ANSWER: None.

(b) **APPLICABLE TO SPCOA APPLICANTS ONLY.** Identify all affiliates whose minutes of use are included in the calculation required in 12(a).

ANSWER: None.

Question 12 (a) -- Has the Applicant, its owners, or any affiliate applied for a permit, license, or certificate to provide telecommunications services in any state other than Texas? If yes, identify the affiliates, what permit, license, or certificate they have applied for, and the state(s) in which they have applied.

ANSWER: No

(b) Has the Applicant, its owners, or any affiliate ever had a permit, license, or certificate to provide telecommunications services granted by any state, including Texas? If yes, identify the affiliates, what permit, license, or certificate they have and when they were held and the state(s) in which they are held. Provide an explanation.

ANSWER: No

(c) Has the Applicant, its owners, or any affiliate ever had any permit, license, or certificate denied or revoked by any state? If yes, identify the affiliates, what permit, license, or certificate they had revoked, and the state(s) in which they were revoked. Provide an explanation.

ANSWER: No

(d) Has the Applicant, its owners, or any affiliate ever provided telecommunications services in Texas or any other state? If yes, identify the affiliates, what permit, license, or certificate they may have held, and the state(s) in which they provided service.

ANSWER: No

Question 13 (a) -- Any complaint history, disciplinary record and compliance record during the 60 months immediately preceding the filing of the application regarding: the applicant; the applicant's affiliates that provide utility-like services such as telecommunications, electric, gas, water, or cable service; the applicant's principals; and any person that merged with any of the preceding persons. The information should include, but not be limited to, the type of complaint, in which state or federal agency the complaint was made, the status of the complaint, the resolution of the complaint and the number of customers in each state where complaints occurred.

ANSWER:

Complaint history concerning TV Max, Inc., dba Wavevision:

In May 2012, the City of Houston (the "City") filed a lawsuit (Cause no. 2012-29395) against TV Max Houston, LP ("TVM"), in the 189th District Court, Harris County, Texas alleging that monies were past due. TVM contested the allegation and contented that the City had been collecting the Franchise Fee on internet revenue in violation of the FCC's rules. As a result of the dispute between the parties as to exactly how much TVM owed to the City, the City moved to terminate the TVM cable television franchise agreement. Both of these matters have been resolved through a mutual settlement agreement between the parties.

TV Max, Inc., an affiliate of Applicant, has been the subject of four pending Enforcement Complaints filed by broadcast networks with the Media Bureau of the Federal Communications Commission ("FCC") alleging retransmission of off-air broadcast signals without the broadcast network's consent, in the State of Texas. Broadband Ventures Six, LLC, as successor to TV Max, Inc., operates as a private cable operator and serves approximately 6,000 customers in Texas. The complaints, including name of complainant, date of complaint and FCC docket number, are summarized as follows:

- (i) Fox Television Holdings, Inc., April 12, 2012, MB Docket No. 12-113;
- (ii) Univision Communications, Inc., June 21, 2012, MB Docket No. 12-181;
- (iii) Post-Newsweek Stations, Houston, Inc., July 31, 2012, MB Docket No. 12-222; and
- (iv) ABC, Inc., September 5, 2012, MB Docket No. 12-266.

TV Max has agreed on settlement terms with ABC, and is in settlement discussions with Fox, Univision and Post-Newsweek.

(b) Is the Applicant, or the applicant's principals currently under investigation or have the Applicant or its principals been penalized by an attorney general or any state or federal regulatory agency for the violation of any deceptive trade or consumer protection law or regulation? If yes, please explain.

ANSWER: None

(c) Disclose whether any owners, directors, officers, or partners in the organization are convicted felons? Also disclose whether the applicant or applicant's principals have been convicted or found liable for fraud, theft, larceny, deceit, or violations of any securities laws, customer protection laws, or deceptive trade laws in any state. If yes, please explain.

ANSWER: None

(d) Provide the number of customers per state (including Texas) for the past 60 months, for which the Applicant, its parent company, and/or any affiliates are providing telecommunications services.

ANSWER: None

BROADBAND FIBER, LLC  
Docket No.

Question 14 (a) -- Provide a detailed description of the Applicant's technical qualifications to provide the local exchange service, basic local telecommunications service, and/or switched access service proposed in this Application.

ANSWER: No local exchange service, basic local telecommunications service or switched access service is proposed in this Application.

(b) If the Applicant plans to rely upon a consultant to meet the technical qualifications requirements, provide the following information: (1) name, address, and phone number of consultant, (2) a copy of the contract between the principals and the consultant, (3) consultant's resume or a detailed description of the consultants experience, (4) information regarding any professional registrations or certifications that the consultant holds, (5) percentage of the consultant's time being contracted, and (6) a list of other telecommunications companies served by the consultant and the percentage of time allotted to each company.

ANSWER: Applicant does not rely on a consultant.

(c) Provide a detailed description or individual resumes setting forth the qualifications of the Applicant's key personnel. Descriptions or resumes shall include (1) **Key Personnel Names**, (2) **Applicant Company Titles**, (3) **Detailed Telecommunications or Related Experience**, and (4) **Years of Experience**.

ANSWER: Descriptions and/or individual resumes are attached.

## RESUME OF R. ANTHONY KEEFE

**R. Anthony Keefe, President of Broadband Fiber, LLC**

**Nov 2012 - Present**

**2010 – Nov 2012**

### Internet

Cincinnati Communications services are enabled through their high bandwidth fiber optic network. This network is constructed of hundreds of miles of fiber optic cables that extend deeply into many Cincinnati communities. In addition to Broadband over Power Line (BPL) service Cincinnati Communications provides direct fiber connections for business and WiFi hot spots for neighborhoods. Cincinnati Broadband®, is an "are-always-on", high-speed Internet access connection that customers access by plugging their computer into the existing power outlets in any room of their home or small business through a special power line modem. Cincinnati Broadband service provides the same high speed connection when sending and receiving information and allows multiple computers inside a home or business to access the Internet simultaneously.

**2010 - 2012**

### Information Technology and Services

Spatial Integrity provides consulting services in the Smart Grid, Communications and Information Technology disciplines.

**2007 - 2010**

### Utilities

Mr. Keefe pioneered the creation of communications-based smart grid applications to allow utilities to manage and monitor devices in the home, business and on the distribution grid. Responsible for all back office infrastructure (data center operations, desktop environments, telephony system, data circuits) for domestic and international offices. After consolidation of services from disparate engineering teams, renegotiated data services data service contract in operational markets for a half million dollar reduction of costs over the contract life.

## RESUME OF R. ANTHONY KEEFE

### 2006 - 2007

Chief Information Officer

#### Information Technology and Services

Created a comprehensive IT strategy to match the long-term strategy of the business, and continually monitor its progress. Prioritize and align IT resources to maximize productivity and fulfill the strategic plan. As Vice President of Information Technologies for this nascent company he was responsible for the creating all systems for the design, deployment and operation of the broadband over power line (BPL) communications network. Additionally, his team was responsible for all systems that controlled customer lifecycle. This included systems that provided targeted marketing, automated customer acquisition, fulfillment, provisioning, billing and all aspects of customer support. These systems provided a level of automation and interoperability that dramatically reduced the need for manual effort in the organization's back office.

### 2003 - 2006

Chief Information Officer

#### Information Technology and Services

### 2000 - 2003

Chief Information Officer

#### Telecommunications

As Vice President of Information Technologies he was responsible for integrating legacy technologies with new web based technologies. Consolidated systems to reduce annual maintenance expense and minimize redundant data. -> Created electronic processes for the acquisition, provisioning, operation and billing of communications customers. These tools compressed the sales cycle, provided a real-time commission calculation feedback mechanism to sales personnel, dramatically reduced error rates and cut expenses. => Brought customer telephony rating and billing "in-house" for a savings of over \$1M per year. => Created new processes to entwine legacy systems with new web based applications to create a single "element of record". This decreased data duplication and the synchronization challenge associated with redundant data. => Consolidated and retired legacy systems to save over \$3.6 M per year.

## RESUME OF R. ANTHONY KEEFE

### 1999 - 2000

Wireless

### 1996 - 1999

#### Wireless

Conceptualized, planned and created an independent IT organization in support of this dynamic, innovative and fast growing communications firm. During his service the firm grew from a base of 45K clients to over 500K. Led the organization through a series of advanced system upgrades to capitalize on emerging technologies and automate the entire corporation. Directed a staff of 52 IT professionals with an annual budget of \$16 million. After the enterprise was sold to Bell Atlantic in November of 1999, Mr. Keefe served as Senior Director of Information Technologies for Bell Atlantic. He assisted them through their conversion to Verizon Wireless. => Delivered a 25% reduction of the production interval of the customer invoice through process reengineering that resulted in increased cash flow and decreased customer service activities. => Constructed a point-of-sale process and systems that enabled the company to double its customer base [>500k] while reducing back office activities and reducing our bad debt by 86%. => Developed customer-centric systems that allowed for a substantial reduction of manual process and dramatically increased customer intimacy. These systems provided for a 29% reduction in customer churn. => Engineered Interactive Voice Response units that reduced calls to customer service and associated support groups which decreased expense by \$5 million annually.

### 1990 - 1996

Information Technology and Services



BROADBAND FIBER, LLC  
Docket No. \_\_\_\_\_

Question 15-- Attach a completed Service Quality Questionnaire.

ANSWER: The Service Quality Questionnaire is attached.

SERVICE QUALITY QUESTIONNAIRE for SPCOA and COA Applicants as required in Question number 15.

Will the Applicant meet each of the following benchmark service quality standards listed below? For each "NO" response, please provide an explanation.

YES ☐ NO ☒ Make one-party line service available upon request to all subscribers of local exchange service.

EXPLANATION: Applicant will not provide local exchange service to retail subscribers.

YES ☒ NO ☐ Install 95% of primary service orders and 90% of regular service orders within five working days of customer orders, excluding those orders where a later date is requested by the customer.

YES ☒ NO ☐ Meet 90% of commitments to customers regarding the date of installation of service orders, excepting customer-caused delays.

YES ☐ NO ☒ Maintain the level of held regrade orders (as defined in Substantive Rule 26.54) at or below one percent of access lines served.

EXPLANATION: Applicant is not a dominant certificated telecommunications utility ("DCTU") and will not provide access line service.

YES ☐ NO ☒ Answer 85% of toll and assistance operator calls within ten seconds.

EXPLANATION: Applicant will not provide local exchange service and will not provide toll calling and/or operator assistance.

YES ☒ NO ☐ Answer 90% of repair service calls and calls to business offices within 20 seconds.

YES ☐ NO ☒ Provide dial tone within 3 seconds for 98% of calls.

EXPLANATION: Applicant will not provide dial tone service.

YES ☐ NO ☒ Maintain an availability factor for stored program controlled digital and analog switching facilities (local intra-office) at 99.99%, or keep total unscheduled outages below 53 minutes per year.

EXPLANATION: Applicant will not provide local exchange or switched private line services.

YES \_\_\_\_ NO X Maintain an availability factor for stored program controlled digital and analog switching facilities (local inter-office) at 99.93%, or keep total unscheduled outages below 365 minutes per year.

EXPLANATION: Applicant will not provide local exchange or switched private line services.

YES \_\_\_\_ NO X Complete 97% of properly dialed tolled calls without encountering failure because of blockages or equipment irregularities.

EXPLANATION: Applicant will not provide toll calling.

YES X NO \_\_\_\_ Maintain an average monthly rate of customer trouble reports, excluding CPE reports, at or below 6%.

YES X NO \_\_\_\_ Clear 90% of out-of-service trouble reports within 8 working hours, except where access to the customer's premises is required and not available or where interruptions are caused by unavoidable casualties and acts of God affecting large groups of customers.

YES \_\_\_\_ NO X Maintain the number of repeated trouble reports on residence and single-line business lines at or below 22% of the total customer trouble reports on those lines.

EXPLANATION: Applicant not provide residential or single-line business lines.

YES \_\_\_\_ NO X Maintain transmission facilities meeting the requirements of Substantive Rule 26.54, Transmission Requirements.

EXPLANATION: Applicant is not a DCTU.

YES X NO \_\_\_\_ Meet the Commission's continuity-of-service requirements established in Substantive Rule 26.51.

YES \_\_\_\_ NO X Provide 911 emergency telephone service in accordance with Chapters 771 and 772 of the Texas Health and Safety Code, as applicable.

EXPLANATION: Applicant will not provide local exchange service.

YES \_\_\_\_ NO X Commit to providing equipment that will comply with 911 requirements.

EXPLANATION: Applicant will not provide local exchange service.

YES X NO \_\_\_\_ Commit to providing at least 1 customer service representative per every 2,500 customers during normal business hours.

YES \_\_\_\_ NO X Commit to providing equipment that is local number portability (LNP) capable.

EXPLANATION: Applicant will not provide local exchange service.

YES X NO \_\_\_\_ Maintain an emergency operations plan that addresses disaster recovery procedures.

YES X NO \_\_\_\_ Comply with PUC Substantive Rules §26.32 and §26.130 requiring notification of customers about slamming and cramming information on monthly bills.

YES X NO \_\_\_\_ Comply with PUC Substantive Rules §26.31 for customer disclosure.

YES X NO \_\_\_\_ Comply with PUC Substantive Rules §26.122 regarding customer proprietary network information.

YES X NO \_\_\_\_ Comply with applicable portions of Chapter 26, Subchapter B regarding customer service and protection.

YES X NO \_\_\_\_ Comply with anti-discrimination laws on the basis of race, nationality, color, religion, sex, marital status, income level, source of income, or geographic location.

YES X NO \_\_\_\_ Disclose to customer that they may contact the PUC and pursue complaints if the customer and certificate holder cannot resolve the complaint.

BROADBAND FIBER, LLC

Docket No. \_\_\_\_\_


Question 16 -- Provide an audited or unaudited balance sheet for the applicants most recent quarter that demonstrates the shareholders' equity required by P.U.C. Subst. R. 26.111(f). The audited balance sheet must include the independent auditor's report. The unaudited balance sheet must include a sworn statement from the executive officer of the applicant attesting to the accuracy, in all material respects, of the information provided in the unaudited balance sheet.

ANSWER: Attached.

**Broadband Fiber, LLC**  
**Balance Sheet as of October 31, 2012**

	<u>October 31, 2012</u>
<b>ASSETS</b>	
Current Assets	
Account Receivable	\$339,101
Total Current Assets	<u>\$339,101</u>
Fixed Assets	
Fiber, Net	\$391,111
Total Fixed Assets	<u>\$391,111</u>
<b>TOTAL ASSETS</b>	<u><u>\$730,212</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Accounts Payable	\$46,064
Other Current Liabilities	\$5,392
Total Current Liabilities	<u>\$51,456</u>
Long Term Liabilities	
Note Payable - TVMAX	\$400,000
Total Long Term Liabilities	<u>\$400,000</u>
Total Liabilities	\$451,456
Equity	
Net Income	\$278,755
Total Equity	<u>\$278,755</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>\$730,211</u></u>

I swear and affirm that all of the statements and representations made in this Application for a Service Provider Certificate of Authority, including all material information included in this unaudited balance sheet are true and correct."

  
R. Anthony Keefe

President  
Broadband Fiber, LLC

BROADBAND FIBER, LLC  
Docket No. \_\_\_\_\_

Question 17 -- Provide a summary of any history of insolvency, bankruptcy, dissolution, merger or acquisition of the applicant or any predecessors in interest during the 60 month immediately preceding this Application.

ANSWER: Merger and Acquisition History:

June 2010: Broadband Ventures IV, LLC acquired 73.8% of TV Max Holdings, Inc.

June 2012: Broadband Ventures Six, LLC acquired all CATV and cable television subscriber-related assets of TV Max Houston, LP, an indirect wholly owned subsidiary of TV Max Holdings, Inc.

July 2012: Broadband Fiber, LLC (the Applicant) acquired all fiber optic network assets of TV Max Houston, LP.

November 2012: Broadband Ventures Group, LLC acquired Broadband Fiber, LLC, Broadband Ventures Six, LLC, and Cincinnati Communications, LLC.